



Field Advisory Services (FAS)

FASTTRACK

Number 2005-1, January 2005



New Program Enables Injured DoD Employees to Return to Suitable Work When Partially Recovered

Injury & Unemployment
Compensation (ICUC)

[E-mail us](#)

The Defense Safety Oversight Council (DSOC) Workers' Compensation Task Force has initiated the Pipeline Re-Employment Program for Defense Employees for all Department of Defense (DoD) Components. The short title is "Pipeline Program."

This program provides DoD organizations the overhire and civilian pay authority necessary to re-employ partially recovered employees who have suffered job-related injuries and illnesses. It addresses two basic issues that have historically hindered installation re-employment efforts: re-source allocation and funding. The Office of the Secretary of Defense has authorized



the Pipeline Program and approved funding and full-time equivalent (FTE) positions to support it.

The Pipeline Program removes the barriers of funding and FTE availability by providing both to DoD installations for a period of up to one year. By returning injured employees to suitable, productive work as soon as they are able, the program will boost the employees' sense of their own value to the organization while minimizing the cost of workers' compensation disability payments.

The Pipeline Program supports the President's Safety, Health, and Return-to-Employment (SHARE) initiative and is expected to yield sizeable returns on Fiscal Year (FY) 2005 and out-year investments. Re-employing approximately 200 injured employees each fiscal year could result in a projected lifetime cost avoidance to the injury compensation fund of up to \$170 million.

For more information, please contact the ICUC Division.

FAS Will Field Questions about National Security Personnel System Implementation

FAS is aligning to support DoD Component human resources practitioners during implementation of the National Security Personnel System (NSPS). Congress authorized the new system in the National Defense Authorization Act for Fiscal Year 2004, Section 1101 (Public Law 108-136, 117 Stat. 1392-1629), November 24, 2003.

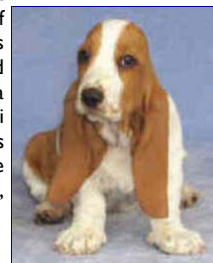
FAS will continue to fulfill its role as the principal DoD source for technical advice and assistance to field activity Human Resources (HR) specialists for the current HR system. Additionally, dedicated FAS staff will be well-positioned to respond to questions from field activity HR specialists about NSPS. Further information will be included in a future issue of *FASTTRACK*.

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You say I don't belong here, even if I am an adorable basset? Maybe I don't, but FAS staff members Pete and Linda Marchesani said it was okay (see article, page 5).





Expanded Schedule A Hiring Authority for Positions that Directly Support Iraq Operations

Staffing & Development

[E-mail us](#)

The Department of Defense (DoD) has obtained Schedule A appointing authority for temporary or time-limited appointments throughout the Department. The Office of Personnel Management (OPM) letter that establishes this authority, dated November 24, 2004, is posted on the CPMS web site at <http://www.cpms.osd.mil/HotItems/SchATemp.pdf>. The reference for the new authority is title 5, Code of Federal Regulations (CFR),

section 213.3106(b)(10), as follows:

“Temporary or time-limited positions in direct support of U.S. Government efforts to rebuild and create an independent, free, and secure Iraq, when no other appropriate appointing authority applies. Positions will generally be located in Iraq, but may be in other locations, including the United States, when directly supporting operations in Iraq. No new appointments may be made under

this authority after March 31, 2009.”

The new authority supersedes the previous Schedule A hiring authority under 5 CFR 213.3102(i)(3) for temporary appointments to positions in Iraq and directly supporting operations in Iraq. When filling positions under this authority, human resources offices should ensure that the Schedule A, 213.3106(b)(10) appointing authority is cited on the SF-50, Notification of Personnel Action. The legal authority code is XZM.



The new Schedule A hiring authority may be used worldwide.

Completion Ceremony

Defense Leadership & Management Program [E-mail us](#)

Sixty participants who completed the Defense Leadership and Management Program (DLAMP) were honored at a December 15, 2004, ceremony in Arlington, Virginia, hosted by the Hon. Charles S. Abell, Principal Deputy Under Secretary of Defense for Personnel and Readiness (PDUSD(P&R)).

As keynote speaker, the Hon. David S. C. Chu, USD (P & R), challenged participants to advance what Secretary Rumsfeld calls a culture of “innovation and intelligent risk-taking.” Mr. Abell and Ms. Ellen Tunstall, Acting DUSD (Civilian Personnel Policy), presented certificates of completion, including an honorary certificate to the family of David W. Laychak, a participant slain in the September 11, 2001, attack on the Pentagon.

The next completion ceremony is projected for July 2005. The solicitation for the Class of 2005 was released to the Components in December 2004, and a copy is available at www.cpms.osd.mil/dlamp.

Procedures for Extending Temporary or Term Appointments, or Temporary Promotions

Staffing & Development

[E-mail us](#)

Staffing has been asked:

Q. What are the procedures for requesting an extension of a temporary or term appointment, or of a temporary promotion, from OPM?

A. Requests for extension of a temporary appointment beyond two years, term appointment beyond four years, or temporary promotion beyond five years are submitted through the

Component chain of command to the Field Advisory Services (FAS) Division. FAS reviews such requests to determine if an extension is justified in accordance with the following provisions of title 5, Code of Federal Regulations (CFR):

- Temporary appointment—5 CFR 316.401(d)(2);
- Term appointment—5 CFR 316.301(b); and
- Temporary promotion—5 CFR 335.102(f).

Situations that may be cited as justification include a

major reorganization, pending base closure, A-76 study, restructuring, or other unusual circumstances. Extension requests meeting the above requirements are forwarded to OPM for approval.

OPM has not established specific processing time frames. However, since extensions cannot be made retroactively, we strongly suggest that requests for extension be submitted to reach FAS at least 60 days before the expiration date.



DoD HR Data Warehouse Is Being Developed; Phase I Includes Comprehensive Data Mart

Regionalization & Systems Modernization [E-mail us](#)

The Regionalization and Systems Modernization Division has started to develop a data warehouse that will provide DoD senior leaders with accurate and timely corporate HR data for enhanced reporting, forecasting, and trend analysis. This effort, known as the Corporate Management Information System - Revised (CMIS-R), is being undertaken in cooperation with the Military Departments and Defense Agencies. CMIS-R will ultimately replace the existing

CMIS system. System requirements are being developed in three phases, and initial software development has already begun.

The Phase I roll-out of CMIS-R, scheduled for May 30, 2005, will include a single DoD corporate data mart containing virtually all the data elements captured in the Defense Civilian Personnel Data System (DCPDS). This overall data mart will consolidate data from all regional DCPDS sites and organize it for accurate, timely queries and reports. CMIS-R will be refreshed nightly from the

regional DCPDS databases. It will also include a full array of security features, ad hoc reporting capability using the Business Objects query tool, and an initial set of standard reports.

Phase II of the project will include additional data marts that are currently being defined by a joint requirements team composed of representatives from CPMS, the Military Departments, and the Defense Agencies. Finally, Phase III, scheduled for delivery by September 30, 2005, will include data archiving and purging capabilities.



A "data warehouse" is a collection of enterprise-wide databases to support strategic decision-making. "Data marts" are subsets of a data warehouse that focus on a specific topic or a particular corporate entity.

FLRA Upholds Agency Action to Maintain Order in the Workplace, Makes Distinction Between Robust Speech and Flagrant Misconduct

Labor & Employee Relations

[E-mail us](#)

How should managers react when employees make offensive remarks while engaged in representational activity? Must their "colorful" language be tolerated in a bargaining session, grievance discussion, or other formal discussion? A recent Federal Labor Relations Authority (FLRA) decision suggests the pendulum may be swinging toward less tolerance.

In *Social Security Administration (SSA), Valrico, FL*, 59 FLRA 767 (2004), the union challenged an arbitration award in a case where a steward was disciplined for using inappropriate language. (The steward interrupted her supervisor, who was on a business phone call, by saying, "Kiss my [expletive].") In denying the un-

ion's exceptions, FLRA determined that the pertinent contract provisions mirrored a section of the Federal labor-management relations statute—specifically, title 5, United States Code (U.S.C.), Section 7116(a)(2), which prohibits agencies from discouraging union membership by discriminating in connection with conditions of employment. FLRA reviewed the case *de novo* using statutory standards. As such, the resulting decision has significance for Federal labor relations practitioners.

FLRA said that under the statutory standards, management may attempt to show that an employee's conduct constituted flagrant misconduct or otherwise exceeded the boundaries of protected activity. Then, on a case-by-case basis, FLRA will balance the employee's right to engage in protected

activity, which "permits leeway for impulsive behavior,...against the employer's right to maintain order and respect for its supervisory staff on the jobsite."

In determining that flagrant misconduct had occurred, FLRA applied the four criteria established by a long-standing precedent decision, *Defense Mapping Agency*, 17 FLRA 71 (1985):

- The place and subject matter of the discussion;
- Whether the employee's outburst was impulsive or designed;
- Whether the outburst was in any way provoked by the employer's conduct; and
- The nature of the intemperate language and conduct.

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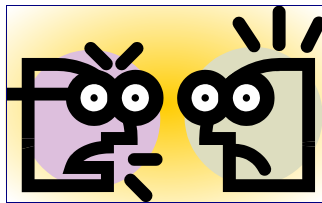
Will the Criterion Remain Flagrant Misconduct? FLRA Examines Boundaries of Protected Activity

(Continued from page 3)

Significantly, FLRA also relied on a 2002 decision by the U.S. Circuit Court of Appeals for the District of Columbia, *Department of the Air Force, 315th Airlift Wing v. FLRA*, 294 F.3d 192. In that decision, the court noted that “flagrant misconduct is only illustrative of exceeding the boundaries of protected activity.” FLRA Chairman Dale Cabaniss noted this “judicial admonishment to the Authority to examine the full range of actions exceeding the boundaries of protected activity” (emphasis added) in her concurring opinion in *SSA, Valrico*. The Chairman concluded that:

“[u]nder our current precedent, the Arbitrator correctly found that the

grievant had engaged in flagrant misconduct. However, I also believe that future cases, addressing similar employee conduct, would be better served where the parties and the Authority use a different analysis. That



analysis asks whether the conduct exceeds the boundaries of protected activity, of which flagrant misconduct is just one, and not the only, example” (emphasis added).

To sum up, a certain amount of impulsive behav-

ior comes with the territory in labor-management relations. Nonetheless, *SSA, Valrico* indicates that FLRA may afford management greater latitude in the future to take disciplinary action. Management must be prepared to show that disciplinary action would be taken even if there were no protected activity involved (see *Letterkenny Army Depot*, 35 FLRA 113 (1990)). Before management takes action, a review of the full text of relevant case law is recommended, including as a minimum the cases cited above and the following, where intemperate speech was protected:

- *Grissom Air Force Base*, 51 FLRA 7 (1995); and
- *Immigration and Naturalization Service*, 44 FLRA 1395 (1992).

Components Gain Authority to Resolve Base Realignment and Closure Annual Leave Issues

Classification
& Pay

[E-mail us](#)

Help is on the way for certain employees who were affected by prior years’ Base Realignment and Closure (BRAC) actions. These employees used annual leave that was restored to them in connection with BRAC after the restored leave expiration date, or they were not paid for restored leave when they left a closing or realigning

installation. In either case, what occurred was improper, and it was not the result of any wrongdoing on the employees’ part.

DoD Components now have authority to correct the employees’ BRAC restored leave accounts and thus avoid the need to recover from their current leave accounts, the amount of annual leave involved. Components may also make lump sum payments to em-

ployees who should have been paid when they left a closing or realigning installation.

Correction authority flows from section 1114 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2004, Public Law 108-136 (November 24, 2003). Section 1114 gave the Department of Defense flexibility to correct the restored leave accounts

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CARE Offers Distance Learning

Civilian Assistance & Re-Employment (CARE) [E-mail us](#)

The Civilian Assistance and Re-Employment (CARE) Distance Learning Center (DLC) provides on-line training opportunities for DoD HR specialists with Priority Placement Program (PPP) and Re-employment Priority List (RPL) responsibilities. There is no cost, and DD Form 1556 is not required.

Two courses are available. “Navigating and Using the Automated Stopper and Referral System (ASARS) Web Site” familiarizes PPP users with ASARS navigation and operation. “Re-employment Priority List” covers legal and regulatory authorities, registering employees on the RPL, and clearing the RPL when filling positions.

<http://dayton.cpms.osd.mil> is the ASARS web site. To take a course, log onto the site and click the E-Learning button on the left side of the main menu. (Those without a web site account should ask their Activity ASARS systems administrator to set up a student account. Questions on how to do so may be referred to Beth Booth at beth.booth@cpms.osd.mil or 937-257-3537 (DSN 787-).) After a brief registration process, take the course and print out the certificate of completion.

The basic PPP course and advanced courses will be on-line soon. We hope you will learn and benefit from DLC courses!



New Authority Allows Correction of Base Realignment & Closure Restored Leave Accounts

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of employees who transferred from a base that was closed or realigned under the Defense Base Closure and Realignment Act of 1990, Public Law 101-510 (November 5, 1990).

The PDUSD(P&R) memorandum of September 29, 2004, subject: Restoration of Annual Leave, issued DoD policy implementing section 1114. The policy delegated authority to the Secretaries of the Military Departments and Defense Agency Heads to correct BRAC restored leave accounts as permitted by section 1114. It also gave them the option to redelegate this authority to subordinate officials.

Some employees were allowed to use leave that was

restored under section 6304 (d)(3) of title 5, United States Code (5 U.S.C. 6304 (d)(3)), after the date the restored leave should have expired (this date is determined for each individual



by application of the rules in section 630.306(b) of title 5, Code of Federal Regulations (CFR)). This improperly used leave would normally be recovered by an offset against the employee's current leave account. However, section 1114(a) of the

NDAA for FY 2004 allows the Secretary of Defense to deem that such leave was used within the appropriate time limits.

Other employees transferred from a closing or realigning installation, but they were not paid the lump sum payment for their leave that was restored under 5 U.S.C. 6304(d)(3). Section 1114 (b) of the NDAA for FY 2004 allows the Secretary of Defense to make any lump sum payment (with back-pay interest) that should have been processed at the time of an affected employee's movement from an installation closed or realigned under BRAC (any hours of restored leave actually used after the movement are excluded from the payment).

New Comp Time Rules Issued

Classification
& Pay

[E-mail us](#)

The Federal Workforce Flexibility Act of 2004, Public Law 108-411 (October 30, 2004), authorized compensatory time off for travel outside normal duty hours. On January 27, OPM published interim rules to establish the conditions under which Federal employees may earn compensatory time off for official travel during non-business hours (see 70 Federal Register 3855).

The rules are effective January 28. They define "travel" and "travel status," as well as providing the conditions that employees must meet to be eligible for compensatory time off from work. Where possible, OPM based travel definitions on existing laws and regulations

"Travel status" is defined as the time employees actually spend traveling between the official duty station and a temporary duty station, including the "usual waiting time" that precedes or interrupts travel. The rules also address whether compensatory time is earned for planned and unplanned waiting time (e.g., layovers and flight delays). A key distinction is that, unlike other forms of compensatory time off, the new rules note that 5 U.S.C. 5550b(b) bars payment for unused compensatory time off.

The Defense Finance and Accounting Service (DFAS) will post interim rules on its web site, www.dfas.mil, explaining how to record this form of compensatory time off.

CPMS Personnel-ity Profile

Career in DoD Allowed FAS Staff Member Pete Marchesani to Hop-Scotch the Globe

Pete Marchesani first heard "London Calling" long before that '70s anthem became a Jaguar Motors jingle. "My father was assigned in London as a civilian HR Director for the Navy," Pete says, "so I grew up there for most of the '70s and attended both British and DoD dependents schools." His father's next assignment took the family to Naples, Italy, for several years. Those early experi-

ences "really put the overseas bug in me—the joys of travel in Europe—and my parents are still living in London now."

Half of Pete's career to date has involved assignments abroad. After graduating from George Mason University with a Bachelor of Arts in psychology in 1990, he started as a Staffing Specialist with the Naval Research Laboratory in Washington,

DC. In 1993 he returned to London as an HR supervisor with the U.S. Naval Activities, United Kingdom. After a five-year overseas tour, Pete joined the Office of Naval Research in Arlington, VA.

In 1999 he became Chief of the Classification and Staffing Branch of the Navy HR Service Center (HRSC), Capitol Region, which

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FAS Staff Member Pete Marchesani Enjoys the Challenge of Enabling DoD Civilians to Support Overseas Operations

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closed in 2001. Next, he moved to the Army's European Command Headquarters in Stuttgart, Germany. Finally, in 2003, Pete returned to the States, joining FAS as one of two Staffing and Development Branch specialists who handle overseas employment issues.

He has enjoyed his work here, particularly the fact that, "For four months last year, I was detailed to the National Security Personnel System Office." Pete found it gratifying "to personally experience the top-level focus and attention" being devoted to creating a new, flexible, contemporary HR system for the Department in the 21st century.

His current job challenge is "civilian deployment: enabling DoD civilians to step up to the plate and letting military

'war fighters' concentrate on front-line duties" in the global war on terror. The issues involved are complex and have national significance. In addition, Pete notes, "I'm working alongside former CPMS Director Earl Payne, who has vast experience and is tremendously knowledgeable. It is a privilege and a delight to work with Earl!"

Pete and his wife Linda make their home in West Virginia. Née Linda Weir, she also works in FAS. Being able to share the driving eases their commute to CPMS in Arlington, VA. (Additionally, most CPMS positions, including the Marchesanis', have been designated as eligible for telework.)

The couple's house pets might be just a teensy bit spoiled. "I am master and servant to a French basset hound named Otis, and a staff member to our

cat, Willie," is how Pete describes his role. However, providing catnip and belly-rubs may soon become more Linda's responsibility than Pete's. "This month, I started a master's degree program in diplomacy at Norwich University," he says. Pete's choice of curriculum should come as no surprise. After all, he has long had a keen interest in international relations, as his current assignment and many years abroad both amply attest.

CPMS Employment Corner

CPMS job vacancies are posted on the Human Resources Operations Center (HROC) job opportunities web site at <http://www.hr/dla/mil/onjams/splash.htm>.

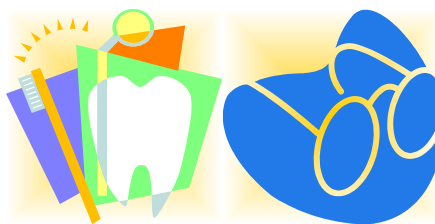
Federal Employees Health Benefits Program (FEHBP) to Add Supplemental Dental and Vision Coverage During 2006

Benefits & Entitlements [E-mail us](#)

The Federal Employees Health Benefits Program (FEHBP) is expected to offer supplemental dental and vision insurance beginning in 2006. Under the Federal Employee Dental and Vision Benefits Enhancement Act of 2004, Public Law 108-496 (December 23, 2004), OPM is authorized to contract with qualified companies to provide the supplemental coverage.

Some current FEHBP plans now provide a degree of dental and vision coverage. They can continue to do so

under the new legislation, and employees may choose to obtain the supplemental coverage as well. Employees will bear the full cost of supple-



mental coverage, with no employer contribution. However, OPM's Government-wide negotiations may well result in lower premiums than would otherwise be available, and employ-

ees will be able to pay for premiums with pre-tax dollars, for even greater cost savings.

Prior to enactment, some concerns were voiced that the supplemental benefits might lead to carving out current benefits, such as prescription drugs, from existing FEHBP insurance plans. In its *Report to Accompany S. 2657*, the Senate Committee on Governmental Affairs said that this legislation "should not be viewed as a precedent for segregating treatments or procedures that, unlike dental and vision, are integrally related to the practice of medicine" (*Report*, p. 5).